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Paper No. 32

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARK ROBINS

Appeal No. 2004-2090
Application No. 09/540,391

HEARD: March 8, 2005

Before: JERRY SMITH, BLANKENSHIP and NAPPI, **Administrative Patent Judges.**

NAPPI, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 of the final rejection of claims 15 through 17 and 23 through 28. For the reasons stated *infra* we will not sustain the examiner's rejection of these claims.

Invention

The invention relates to a system for monitoring the release of a product. The product is characterized as having a series of features, each of which requires a series of tasks such as engineering tasks, quality assurance tasks, and technical documentation tasks, which must be approved and completed. The tasks are grouped by owning function (i.e. engineering, quality assurance...) and linked to the features. See page 2 of appellant's specification. Claim 15 is representative of the invention and reproduced below:

15. A method for managing a release of a product, comprising:
 - describing the product in terms of a plurality of product features;
 - entering a description of each of said product features, wherein said description comprises an instantiation of a feature list graphical user interface;
 - defining a plurality of tasks, wherein each of said tasks is associated with one of said product features, the plurality of tasks being grouped into task types;
 - linking each of the plurality of tasks with one of the plurality of product features;
 - entering a task progress development as an instantiation of a task-type graphical user interface, wherein the task-type graphical user interface is selected from a plurality of task-type graphical user interfaces, each corresponding to one of the task types; and
 - tracking a status of each product feature via the instantiated task-type graphical user interfaces.

References

The references relied upon by the examiner are:

Buckley et al. (Buckley)	5,036,472	Jul. 30, 1991
Hsu et al. (Hsu)	6,347,258	Feb. 12, 2002 (Filed Aug. 09, 2000)

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"User's Guide for Microsoft Project for Windows 95 and Windows 3.1", Microsoft Corporation (1995), pages 3-7, 88, 90, 91, 93, 95, 117, 141, 144. (User's guide to Project)

Pyron et al. (Pyron) "Using Microsoft Project 4 for Windows", Que Corporation, (1994).

Eisner, "Essentials of Project and Systems Engineering Management", John Wiley & Sons, Inc. (1997), pages 153-76.

Kroenke "Database Processing Fundamentals, Design, and Implementation" Seventh Edition, Prentice Hall (2000), pages 17, 18, 36-38, 116, 533-534.

Almási et al. (Almási) "Print Quality Analyzer Sponsored by QMS", Florida Technology Development Corporation, (April 22, 1999). Appendices C, D, F and G.

Rejection at Issue

Claims 15, 16, 26 and 27 stand rejected under 35 U.S.C. § 103 as being obvious over User's guide to Project in view of Pyron, Hsu, Buckley and Almási.

Claims 23 and 24 stand rejected under 35 U.S.C. § 103 as being obvious over User's guide to Project in view of Pyron and Eisner. Claims 17 and 28 stand rejected under 35 U.S.C. § 103 as being obvious over User's guide to Project in view of Pyron and Kroenke. Claim 25 stands rejected under 35 U.S.C. § 103 as being obvious over User's guide to Project in view of Pyron, Eisner and Kroenke. Throughout the opinion we make reference to the briefs and the answer for the respective details thereof.

Opinion

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of obviousness relied upon by the

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examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellant's arguments set forth in the briefs along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

With full consideration being given to the subject matter on appeal, the examiner's rejections and the arguments of appellant and the examiner, and for the reasons stated *infra* we will not sustain the examiner's rejection of claims 15 through 17 and 23 through 28 under 35 U.S.C. § 103.

We first consider the rejection of claims 15, 16, 26 and 27 under 35 U.S.C. § 103 over User's guide to Project in view of Pyron, Hsu, Buckley and Almási. At the outset, we note that Hsu was issued on Feb 12, 2002 and filed on August 9, 2000, as such it is not prior art under any section of 35 U.S.C. §102. Nonetheless, as it appears from the examiner's rejection, on pages 7-10 of the answer, the examiner is relying on Hsu, Buckley and Almási to prove the same issue, and thus we will consider the rejection based upon User's guide to Project, Pyron, Buckley and Almási.

Appellant admits, on pages 3 and 4 of the brief that "Microsoft Project imposes no control over the text entered for summary tasks, and is therefore unable to prevent a user from entering text for summary tasks that, rather than referring to a larger process made up of the tasks grouped under them, instead refers to product features to which the tasks grouped together relate." Appellant

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argues, on pages 5 and 6 of the brief, that the reference to Hsu, Buckley and Almási do not provide the suggestion to modify the use of the program Microsoft Project to connect or link product features with tasks as is claimed.

We agree. Claim 15 includes the limitation "entering a description of each of said product features ... defining a plurality of tasks, wherein each of said tasks is associated with one of said product features, the plurality of tasks being grouped into task types." In analyzing the scope of the claim, office personnel must rely on the appellant's disclosure to properly determine the meaning of the terms used in the claims. *Markman v. Westview Instruments, Inc.*, 52 F3d 967, 980, 34 USPQ2d 1321, 1330 (Fed. Cir. 1995). "[I]nterpreting what is *meant* by a word in a claim 'is not to be confused with adding an extraneous limitation appearing in the specification, which is improper.'" (emphasis original) *In re Cruciferous Sprout Litigation*, 301 F.3d 1343, 1348, 64 USPQ2d 1202, 1205, (Fed. Cir. 2002) (citing *Intervet America Inc v. Kee-Vet Laboratories Inc.* 12 USPQ2d 1474, 1476 (Fed. Cir. 1989)). "[T]he terms used in the claims bear a "heavy presumption" that they mean what they say and have the ordinary meaning that would be attributed to those words by persons skilled in the relevant art." *Texas Digital Sys, Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1202, 64 USPQ2d 1812, 1817 (Fed. Cir. 2002). "Moreover, the intrinsic record also must be examined in every case to determine whether the presumption of ordinary and customary meaning is rebutted." (citation omitted).

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“Indeed, the intrinsic record may show that the specification uses the words in a manner clearly inconsistent with the ordinary meaning reflected, for example, in a dictionary definition. In such a case, the inconsistent dictionary definition must be rejected.” *Texas Digital Systems, Inc. v. Telegenix, Inc.*, 308 F.3d at 1204, 64 USPQ2d at 1819 (Fed. Cir. 2002). (“[A] common meaning, such as one expressed in a relevant dictionary, that flies in the face of the patent disclosure is undeserving of fealty.”); *Id.* (citing *Liebscher v. Boothroyd*, 258 F.2d 948, 951, 119 USPQ 133, 135 (C.C.P.A. 1958) (“Indiscriminate reliance on definitions found in dictionaries can often produce absurd results.”)).

The term “feature” has many definitions, however we find the definition “a prominent or conspicuous part or characteristic”¹ is consistent with the usage of the term “feature” in appellant’s specification. (See for example page 1 and example description of a feature in field 55 of figure 5). Thus, we find that the scope of claim 15 includes describing a product’s characteristics and defining tasks, which are associated with the characteristics of the product. We find that claim 26 includes similar limitations.

Having determined the scope of the claims we next turn to the rejection asserted by the examiner. In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed.

¹ Definition from Random House Dictionary, revised edition 1982

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Cir. 1992). **See also** *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). It is the burden of the examiner to establish why one having ordinary skill in the art would have been led to the claimed invention by the express teachings or suggestions found in the prior art, or by the implication contained in such teachings or suggestions. *In re Sernaker* 702 F.2d 989, 995, 217 USPQ 1, 6 (Fed. Cir. 1983). "The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved." *In re Huston* 308 F.3d 1267, 1278, 64 USPQ2d 1801, 1810 (Fed. Cir. 2002, citing *In re Kotzab* 217 F.3d 1365, 1370, 55 USPQ 1313, 1317 (Fed. Cir. 2000)).

The examiner states, on page 4 of the answer, "Microsoft Project discloses tasks and task types, grouped according to specific features (Chapter 7, 'Printing a Custom Bar Chart Schedule (Gantt Chart)', page 91). Tasks (or features) are grouped into product development phases." Further, on page 5 of the answer, the examiner asserts that "it would have been obvious to modify Microsoft Project by replacing the **Summary Tasks** as shown in the Gantt chart with product features, and listing the tasks required to fulfill or complete the product features." On page 6 of the answer, the examiner provides an example of the results of such a combination. Further, on pages 7 though 10 of the answer the examiner asserts that Hsu, Buckley and Almási, provide support for

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the proposition that it would be obvious to replace the Summary of Tasks in with product features.

We disagree with the examiner's rationale. We find no suggestion in User's guide to Project or Pyron, to use Microsoft Project with features in lieu of summary tasks. Further, we find no suggestion in either Buckley or Almási² to modify the use of Microsoft project as the examiner asserts.

Buckley teaches a system for vending greeting cards. Though, as the examiner asserts, Buckley teaches presenting "available products and their desirable attributes and features" (see column 2, lines 19 and 20), we do not find that Buckley is related to managing the release of a project as claimed nor do we find that Buckley teaches defining a plurality of tasks and linking the tasks to product features as is claimed in independent claims 15 and 26.

The document by Almási cited by the examiner appears to be several appendices from a report generated by a team of engineers; the team appears to include the examiner. The examiner asserts, on page 10 of the answer, "MicroView used Microsoft Project to determine a planned timeline for developing and building the system, as shown in the enclosure. Appendix G specifically shows using Microsoft Project to enumerate the milestones of the project, outline the various testing features and associates specific tasks and

² As stated *supra* Hsu is not prior art, thus we have not considered whether it suggests the modification, as any findings related to Hsu are irrelevant.

features with the product, thereby linking the tasks, features, descriptions to the product and to each other." We fail to find that that the four appendices presented by the examiner show linking tasks to product features as asserted by the examiner. Appendix C "House of Quality" and D "Concept Screening Matrix" (pages 4 and 5) appear to show features and a ranking of various requirements. Appendix F " Project Plan" and G "Assembly and Testing Plan" show Gantt charts depicting project tasks and time lines for completion. However, we find no correlation between the tasks in Appendices F & G and the Features of Appendices C & D. Thus, we do not find that Almási provides the suggestion to associate product features with tasks as claimed in independent claims 15 and 26. For the forgoing reasons, we will not sustain the examiner's rejection of claims 15, 16, 26 and 27.

We next consider the rejection of dependent claims 17 and 28. The rejection is set forth on pages 14 and 15 of the answer. The rejection of these claims builds on the rejection of claims 15 and 26 by adding Kroenke to teach linking features in a relational database with the use of database keys. The examiner does not assert, nor do we find that Kroenke teaches associating product features with tasks as claimed. Accordingly, for the reasons discussed *supra* with respect to claims 15 and 26, we will not sustain the examiner's rejection of claims 17 and 28.

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We next consider the rejection of claims 23 and 24. The examiner's rejection is set forth on pages 11 through 13 of the answer. The statement of the rejection relies upon the same references to the User's guide to Project and Pyron applied to claim 15 and includes Eisner. The examiner states on pages 12 and 13 of the answer

The combination of Microsoft Project/Project 4 [Project user's guide and Pyron] does not specifically disclose that the GUI task list/product feature list of the Gantt chart format could be modified to track quality assurance tasks, testing and evaluation tasks, or technical documentation tasks, and that the T&E, QA and documents tracking lists are associated with a particular product feature. However, Eisner... discloses Test and Evaluation, Quality Assurance and Documentation. . . .

Appellant argue, on page 7 of the brief, that the combination of the references do not teach the limitation of "a product feature list user interface by which a user enters desired features of the product to be released" as recited in claim 23.

We concur. Claim 23 includes the limitation of a product feature list user interface and the limitation that all parameters entered by the user into the engineer task list user interface, the quality assurance interface and the technical documents list user interface are each defined in terms of a particular one of the product features. As stated *supra* with respect to claim 15, we do not find that the combination of Project user's guide and Pyron teach or suggest associating product features with tasks. We find that section of Eisner cited by the examiner is a text describing many aspects of system engineering to be

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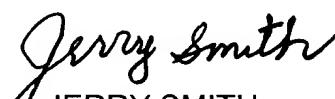
considered over the life cycle of system. (See page 156). The cited section of Eisner discusses the use of quality assurance and technical documentation. However, we do not find that Eisner teaches or suggests associating product features with tasks as claimed. Accordingly, we will not sustain the examiner's rejection of claims 23 and 24.

We next consider the rejection of dependent claim 25. The rejection is set forth on page 16 of the answer. The rejection of these claims builds on the rejection of claim 23 by adding Kroenke to teach linking features in a relational database with the use of database keys. As stated *supra* with respect to claims 17 and 28 we do not find that Kroenke teaches associating product features with tasks as claimed. Accordingly, for the reasons discussed *supra* with we will not sustain the examiner's rejection of claim 25.

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In summary we will not sustain the examiner's rejections under 35 U.S.C. § 103. Accordingly, we reverse the examiner's rejection of claims 15 through 17 and 23 through 28.

REVERSED



JERRY SMITH
Administrative Patent Judge


HOWARD B. BLANKENSHIP

Administrative Patent Judge

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ROBERT E. NAPPI

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